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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,255	12/01/2003	Bert Zauderer	04500004US	1600
7055 7590 12/29/2006 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			EXAMINER VAN DYKE, TIMOTHY C	
			ART UNIT	PAPER NUMBER
			1754	
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
3 MONTHS		12/29/2006	ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 12/29/2006.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/724,255

Applicant(s)

ZAUDERER, BERT

Examiner

Timothy C. Vanoy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☒ Claim(s) 4, 10 and 33 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>Dec. 1, 2003</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

- a) In claim 4 line 4, "of" should be inserted after "three-quarters".
- b) In claim 10 line 6, the word "calciumchlorine" is informal. Did the applicant intend "calcium chloride"?
- c) In claim 33 line 13, the word "fur dioxide" is misspelled.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a) In claim 6, the phrase "such as" renders the claim vague and indefinite because examples and preferences are properly set forth in the specification, rather than the claims: please see section 2173.05(d) in the MPEP 8th Ed., Rev. 3, Aug. 2005.
- b) In claim 20, it is not clear what the applicant intended by the phrase "flat fan spray of conical spray design". Is the spray conical or is the spray flat?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-34 are rejected under 35 U.S.C. 102(b) as being anticipated by US 2002/0061270 A1 to Osborne.

Paragraph no. 0045 in the Osborne publication discloses a method for removing pollutants such as nitrogen oxides, sulfur oxides, volatile organic compounds (which are submitted to include dioxin and furan) and metals such as mercury out of combustion exhaust gases. Claim 1 in this Osborne publication appears to disclose that these pollutants are removed from the flue gas by the same claimed multi-step process comprising the first process of injecting ozone and then the second process of spraying water. There is nothing in Osborne suggesting that the walls of the furnace or boiler are impaired by the process.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

The person having ordinary skill in the art has the capability of understanding the scientific and engineering principles applicable to the claimed invention. The references of record in this application reasonably reflect this level of skill.

Claims 1-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent 6,352,956 B1 to Kienow et al. in view of US 2002/0061270 A1 to Osborne.

Col. 1 Ins. 20-48 in the Kienow patent discloses that it is known to use activated carbon or activated coke to remove sulfuric acid, dioxins, furans and heavy metals out of exhaust gas.

The difference between the applicants' claims and the Kienow patent is that the applicants' claims also call for the removal of nitrogen oxides out of exhaust gas.

The Osborne publication discloses the removal of not only the sulfur oxides, volatile organic compounds and heavy metals of the Kienow patent but also the removal of nitrogen oxides as well (please see paragraph no. 0045) by spraying ozone and then water into the exhaust gas (please see claim 1).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the process described in the Kienow patent by adding the ozone injection step of the Osborne publication so as to arrive the same claimed "sequential series of processes" set forth in at least applicant's claim 1 because of the expected advantage of removing any nitrogen oxides in the exhaust gas (which are known to also pollute exhaust gases contaminated with sulfur dioxide, etc.), as taught in paragraph no. 0045 in the Osborne patent - as well as removing any

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residual sulfur oxides, dioxins, furans and heavy metals that may have escaped from the Kienow process.

There is nothing in either Kienow or Osborne teaching or suggesting that their processes impair the walls of the furnace or boiler.

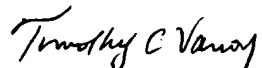
U. S. Patent 7,022,296 B1 disclosing a method for treating flue gas is made of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy C. Vanoy whose telephone number is 571-272-8158. The examiner can normally be reached on Mon-Fri 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Timothy C Vanoy
Primary Examiner
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